

PREVAILED

Roll Call No. _____

FAILED

Ayes _____

WITHDRAWN

Noes _____

RULED OUT OF ORDER

HOUSE MOTION _____

MR. SPEAKER:

I move that Engrossed Senate Bill 461 be amended to read as follows:

- 1 Page 25, between lines 23 and 24, begin a new paragraph and insert:
- 2 "SECTION 41. IC 36-9-1-2 IS AMENDED TO READ AS
- 3 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. "Improvement"
- 4 includes the construction, equipment, remodeling, extension, repair,
- 5 and betterment of structures, including:
- 6 (1) sanitary sewers and sanitary sewer tap-ins;
- 7 (2) sidewalks;
- 8 (3) curbs;
- 9 (4) streets;
- 10 (5) alleys;
- 11 (6) pedestrian-ways or malls set aside entirely or partly, or during
- 12 restricted hours, for pedestrian rather than vehicular traffic;
- 13 (7) other paved public places;
- 14 (8) parking facilities;
- 15 (9) lighting;
- 16 (10) electric signals;
- 17 (11) landscaping, including trees, shrubbery, flowers, grass,
- 18 fountains, benches, statues, floodlighting, gaslighting, and
- 19 structures of a decorative, educational, or historical nature; ~~and~~
- 20 (12) for units that own and operate a water utility, water main
- 21 extensions from the water utility; **and**
- 22 **(13) for units that establish and operate a department of**
- 23 **public sanitation under IC 36-9-25, sewage works that are:**
- 24 **(A) overhead plumbing or backflow prevention devices;**

1 **(B) installed in private dwellings; and**

2 **(C) financed in whole or in part through assistance**
 3 **provided under IC 36-9-25-42.**

4 SECTION 42. IC 36-9-1-8 IS AMENDED TO READ AS
 5 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 8. "Sewage works"
 6 means:

7 (1) sewage treatment plants;

8 (2) intercepting sewers;

9 (3) main sewers;

10 (4) submain sewers;

11 (5) local sewers;

12 (6) lateral sewers;

13 (7) outfall sewers;

14 (8) storm sewers;

15 (9) force mains;

16 (10) pumping stations;

17 (11) ejector stations; ~~and~~

18 (12) any other structures necessary or useful for the collection,
 19 treatment, purification, and sanitary disposal of the liquid waste,
 20 solid waste, sewage, storm drainage, and other drainage of a
 21 municipality; **and**

22 **(13) for purposes of IC 36-9-25, overhead plumbing or**
 23 **backflow prevention devices that are financed in whole or in**
 24 **part through assistance provided under IC 36-9-25-42.**

25 SECTION 43. IC 36-9-25-11, AS AMENDED BY P.L.175-2006,
 26 SECTION 23, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 27 UPON PASSAGE]: Sec. 11. (a) In connection with its duties, the board
 28 may fix fees for the treatment and disposal of sewage and other waste
 29 discharged into the sewerage system, collect the fees, and establish and
 30 enforce rules governing the furnishing of and payment for sewage
 31 treatment and disposal service. The fees must be just and equitable and
 32 shall be paid by any user of the sewage works and the owner of every
 33 lot, parcel of real property, or building that is connected with and uses
 34 the sewage works of the district by or through any part of the sewerage
 35 system. This section applies to owners of property that is partially or
 36 wholly exempt from taxation, as well as owners of property subject to
 37 full taxation.

38 (b) The board may change fees from time to time. The fees, together
 39 with the taxes levied under this chapter, must at all times be sufficient
 40 to produce revenues sufficient to pay operation, maintenance, and
 41 administrative expenses, to pay the principal and interest on bonds as
 42 they become due and payable, and to provide money for the revolving
 43 fund authorized by this chapter.

44 (c) Fees may not be established until a public hearing has been held
 45 at which all the users of the sewage works and owners of property
 46 served or to be served by the works, including interested parties, have

had an opportunity to be heard concerning the proposed fees. After introduction of the resolution fixing fees, and before they are finally adopted, notice of the hearing setting forth the proposed schedule of fees shall be given by publication in accordance with IC 5-3-1. After the hearing the resolution establishing fees, either as originally introduced or as amended, shall be passed and put into effect. However, fees related to property that is subject to full taxation do not take effect until they have been approved by ordinance of the municipal legislative body or, in the case of a district described in section 3(b)(2) of this chapter, under section 11.3 of this chapter.

(d) A copy of the schedule of the fees shall be kept on file in the office of the board and must be open to inspection by all interested parties. The fees established for any class of users or property served shall be extended to cover any additional premises thereafter served that fall within the same class, without the necessity of hearing or notice.

(e) A change of fees may be made in the same manner as fees were originally established. However, if a change is made substantially pro rata for all classes of service, hearing or notice is not required, but approval of the change by ordinance of the municipal legislative body is required, and, in the case of a district described in section 3(b)(2) of this chapter, approval under section 11.3 of this chapter is required.

(f) If a fee established is not paid within thirty (30) days after it is due, the amount, together with a penalty of ten percent (10%) and a reasonable attorney's fee, may be recovered by the board from the delinquent user or owner of the property served in a civil action in the name of the municipality.

(g) Fees assessed against real property under this section also constitute a lien against the property assessed. The lien attaches at the time of the filing of the notice of lien in the county recorder's office. The lien is superior to all other liens except tax liens, and shall be enforced and foreclosed in the same manner as is provided for liens under IC 36-9-23-33 and IC 36-9-23-34.

(h) A fee assessed against real property under this section constitutes a lien against the property assessed only when the fee is delinquent for no more than three (3) years from the day after the fee is due.

(i) In addition to the penalties under subsections (f) and (g) and section 11.5 of this chapter, a delinquent user may not discharge water into the public sewers and may have the property disconnected from the public sewers.

(j) The authority to establish a user fee under this section includes fees to recover the cost of construction of sewage works from industrial users as defined and required under federal statute or rule. Any industrial users' cost recovery fees may become a lien upon the real property and shall be collected in the manner provided by law. In

1 addition, the imposition of the fees, the use of the amounts collected,
 2 and the criteria for the fees must be consistent with the regulations of
 3 the federal Environmental Protection Agency.

4 **(k) The authority to establish a user fee under this section**
 5 **includes fees to recover the costs associated with providing**
 6 **financial assistance under section 42 of this chapter. A fee that is:**

- 7 **(1) established under this subsection or any other law; and**
- 8 **(2) used to provide financial assistance under section 42 of this**
 9 **chapter;**

10 **is considered just and equitable if the project for which the**
 11 **financial assistance is provided otherwise complies with the**
 12 **requirements of this chapter.**

13 SECTION 44. IC 36-9-25-42 IS ADDED TO THE INDIANA
 14 CODE AS A NEW SECTION TO READ AS FOLLOWS
 15 [EFFECTIVE UPON PASSAGE]: **Sec. 42. (a) The board may adopt**
 16 **a resolution authorizing the board to provide financial assistance,**
 17 **including grants, to property owners to construct or install**
 18 **regulating devices, improvements, or overhead plumbing or**
 19 **backflow prevention devices for one (1) or more of the following**
 20 **purposes:**

- 21 **(1) To regulate or prevent discharge into private dwellings.**
- 22 **(2) To prevent the pollution of streams or bodies of water.**
- 23 **(3) To reduce or ameliorate inflow and infiltration in sewage**
 24 **works.**
- 25 **(4) To remedy or prevent a menace to the public health and**
 26 **welfare.**

27 **(b) A resolution adopted by the board under subsection (a) must**
 28 **do the following:**

- 29 **(1) State that provided financial assistance as described in**
 30 **subsection (a) will accomplish one (1) or more of the purposes**
 31 **listed in subsection (a)(1) through (a)(4).**
- 32 **(2) State that the board anticipates that the costs associated**
 33 **with providing the financial assistance will be less than the**
 34 **financial burdens potentially incurred if the financial**
 35 **assistance is not provided.**
- 36 **(3) Find that providing financial assistance as described in**
 37 **subsection (a) is necessary to avoid or reduce additional**
 38 **financial burdens.**
- 39 **(4) Establish rules and regulations concerning financial**
 40 **assistance provided under subsection (a). A rule or regulation**
 41 **must provide that:**

- 42 **(A) a grant or other financial assistance provided by the**
 43 **board may not exceed eighty percent (80%); and**
- 44 **(B) the property owner that receives the financial**
 45 **assistance must pay for at least twenty percent (20%);**
 46 **of the total anticipated cost of the project for which the**
 47 **financial assistance is provided."**

- 1 Renumber all SECTIONS consecutively.
 (Reference is to ESB 461 as printed April 10, 2009.)

Representative Stevenson